

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ROBERT J. BURGESS	:	CIVIL ACTION
	:	
v.	:	
	:	
UNITED STATES OF AMERICA	:	NO. 02-3694

MEMORANDUM AND ORDER

Fullam, Sr. J. January , 2004

Plaintiff Robert J. Burgess, who is not represented by counsel, is suing the United States of America because the Internal Revenue Service has assessed penalties against him for filing frivolous income tax returns. Plaintiff seeks an injunction against enforcement of the liens, and also seeks compensatory and punitive damages.

The case was originally scheduled for trial on December 15, 2003, but the Government filed a motion for summary judgment on November 19, 2003. In early December 2003, plaintiff wrote a letter to the Court requesting a 30-day extension of time for responding to the motion for summary judgment. This was granted, and the motion for summary judgment was scheduled for hearing on January 26, 2004. Plaintiff did not appear at the hearing. Instead, at 6:10 a.m. on the scheduled date, plaintiff telephoned the clerk's office and left a message to the effect that he would not be attending the hearing, because he anticipated that the roads would not be passable because of a snowstorm. There was,

in fact, a light snow fall on that date, but all roads in the area were open to traffic, all public transportation systems were operative, the undersigned had no difficulty in reaching the courthouse from an outlying county, all jurors scheduled for jury trial that day were in attendance, and counsel for the Government had traveled from Washington, D.C. to attend the hearing. Accordingly, I permitted Government counsel to argue in support of its motion for summary judgment, and determined that no further hearing would be held.

Plaintiff's complaint in this action is, on its face, legally frivolous. This Court lacks subject-matter jurisdiction to entertain a claim for damages of any kind against the United States government, since its sovereignty has not been waived for any such claim. To the extent that the complaint can be regarded as seeking review of the IRS determination that the tax returns in question were frivolous and warranted the penalties imposed, it is clear that there is no basis for vacating the assessments. The returns in question report that the plaintiff, who is a self-employed electrician, had "zero" income from any and all possible sources. Read in conjunction with his complaint in this case, the returns reflect plaintiff's view that any money he may have received for services do not constitute "income," and/or that he is not subject to taxation because he is a free citizen. The IRS did not err in characterizing these returns as frivolous. The

Government's motion for summary judgment will be granted.

An Order follows.

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ORDER

AND NOW, this day of January 2004, IT IS

ORDERED:

1. The Government's Motion for Summary Judgment is
GRANTED.

2. This action is DISMISSED with prejudice.

John P. Fullam, Sr. J.